BOMBAY ACT No. VIII OF 1865.[1]

[THE SINDH LOCAL FUNDS ACT, 1865.][1]

[*27th December, 1865.*]

An Act to authorize taxation in the Province of Sindh for objects of public local utility and improvement.

Preamble.

WHEREAS it is expedient to provide funds for local works of public utility and improvement [2]* * * * * * *; It is enacted as follows:—

Levy of local cess on lands.

1. It shall be lawful to levy for the purposes of this Act from all lands in the Province of Sindh a cess not exceeding one anna on every rupee assessable to the ordinary land-revenue, and such cess shall be levied in the same manner, and under the same rules, as the ordinary land-revenue:

Levy of cess on settled lands.

Provided that in all cases where an assessment of land-revenue has been authoritatively fixed for a term of years before this Act comes into operation and no cess has been theretofore levied upon such assessment, the cess authorized by this Act to be levied shall not be levied until the expiration of such term:

Cess on lands hereafter settled to be imposed at time of settlement.

Provided also that, in respect of lands of which a settlement for a term of years may be made after this Act comes into operation, such cess be imposed at the time when such settlement is made, and at no other period during the currency of the term.

Cess on alienated lands.

2. It shall also be lawful, in the case of jágír and other alienated lands, to levy such cess at the rate [3][of] five per centum on the assessable value of those lands, instead of the rate hereinbefore directed to be levied.

Levy of cess from farmers of land or saír revenue.

3. It shall also be lawful to levy a cess not exceeding one anna on every rupee leviable under the head of land or saír revenue from all farmers of land or saír revenue who may take farms subsequently to this Act coming into operation.

Levy of shop-tax.

4. It shall also be lawful to levy a shop-tax at rates according to classes to be approved and notified by the Commissioner in Sindh from time to time, but in no case exceeding rupees ten per annum for each

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1865, Supplement, p. 230; for Report of the Select Committee, *see ibid*, p. 261; and for Proceedings in Council, *see ibid*, pp. 254, 278 and 310.

For the short title, *see* s. 2 of the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*.

The net proceeds of the cess on land and of the shop-tax levied under Bom. Act 8 of 1865 are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884)—*see* s. 44 of that Act, *infra*.

[2] The words "and to aid in defraying the expense of the Department of Public Works in the Province of Sindh" were repealed by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*.

[3] This word was substituted for the words "heretofore customarily levied, namely" by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*.

shop, and such tax shall be leviable from all persons who carry on any profession, trade or employment for gain, and use a shop or office for the purpose, and shall be enforced in the same manner and under the same rules as are provided for the levy of land-revenue, so far as applicable.

Cess and tax by whom levied and how collected

5. The cess and tax to be levied under this Act shall be levied by the Commissioner in Sindh under the orders of the Governor in Council of Bombay, and shall be collected by such officers as the said Commissioner, acting under such orders, shall direct to collect the said cess and tax.

6 to 8. [*Assignment of portion of taxes to local fund committees; payment of residue to Government; account to be kept.*] *Rep.* [1]*Bom. Act I of 1884.*

BOMBAY ACT No. VII OF 1866.[2]

[THE BOMBAY HINDU HEIRS' RELIEF ACT, 1866.]

[*31st May, 1866.*]

An Act to limit the liability of a son, grandson or heir of a deceased Hindú for the debts of his ancestor, and the liability of the second husband of a Hindú widow for the debts of her deceased husband, and otherwise to amend the law of debtor and creditor.

Preamble

WHEREAS, according to the law in force, as applied to Hindús by the High Court of Judicature at Bombay in the exercise of its ordinary original civil jurisdiction, no son or grandson of a deceased Hindú is liable for the debts of his ancestor merely by reason of his being such son or grandson, and no son, grandson or other heir of a deceased Hindú, who has received assets of the deceased, is merely from that circumstance liable for the debts of his ancestor beyond the amount of the assets received, and no person marrying a Hindú widow is liable in consequence of such marriage for the debts of her former or any prior deceased husband;

and whereas a different law is applied to Hindús by the Civil Courts which exercise jurisdiction in places beyond the local limits of the ordinary original civil jurisdiction of the said High Court, and it is expedient

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[1] The Bombay Local Boards Act, 1884, *infra*.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1886, Supplement, p. 320; for Report of the Select Committee, *see ibid*, p. 357; and for Proceedings in Council, *see ibid*, pp. 330, 352, 372 and 375.

Bombay Act 7 of 1866 has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the Province of Sind—*see* Appendix to Vol. I of this Code.

to amend the law as applied by such other Courts, and to make the law in that respect uniform throughout the Presidency of Bombay;

and whereas it is also expedient to limit the liability of a Hindú for a family-debt contracted when he was unborn or under twenty-one years of age;

It is hereby enacted and declared as follows:—

Hindu son or grandson not liable as such for debt of ancestor.

1. No son or grandson of a deceased Hindú shall, merely by reason of his being such son or grandson, be liable to be sued for any of the debts of such deceased Hindú.

Heir to be liable as representative of deceased ancestor only to extent of assets received.

2. No son, grandson or heir of a deceased Hindú, who has by himself or his agent received or taken possession of any property belonging to the deceased, shall be liable personally for any of the debts of the deceased, merely by reason of his having so received or taken possession of any such property; but the liability of such son, grandson or heir, in respect of such debts, shall be as the representative of such deceased Hindú and shall be limited to paying the sum out of and to the extent of the property of the deceased which such son, grandson or heir or any other person, by his order or to his use, has received or taken possession of as aforesaid, and which remains unapplied:

Liability in respect of assets received and not applied.

Provided that, if any part of such propeity so received or taken possession of as aforesaid shall not have been duly applied by such son, grandson or heir, he shall be liable personally for such debts to the extent of the property not duly applied by him.

3. [*Pending suits.*] *Rep. Act XII of 1873.*

Husband of Hindú widow not liable for debt of deceased former husband.

4. No person who has married a Hindú widow shall, merely by reason of such marriage, be liable for any of the debts of any prior deceased husband of such widow * * * *[1].

Liability of member of undivided Hindú family for family-debts contracted during his minority.

5. Where a debt is contracted after this Act shall come into operation by one or more members of an undivided Hindú family, under such circumstances as that the same forms the debt of the undivided family, no member of such undivided family, who is unborn or under the age of twenty-one years at the time of the contracting of such debt, shall be liable personally to pay the same, but such member shall only be liable to pay the same out of and to the extent of the property of the undivided Hindú family and of the separate property, if any, belonging to any

[1] The rest of section 4 which was as follows:—"and the provisions of this section may be used as a defence by any such person who shall be defendant in a suit which may be pending at the time when this Act comes into operation, and in which it is sought to make such person liable for any such debts merely by reason of his having married such Hindú widow and in which suit judgment shall not have been pronounced before this Act comes into operation; and with regard to the costs of any suit to which the provisions of this section shall apply, the same shall be dealt with by the Court which makes the decree in the suit, in the same way as such costs would have been dealt with had a decree been made in such suit before this Act had come into operation" was repealed by the Repealing Act, 1873 (12 of 1873).

deceased members of the undivided family who were above the age of twenty-one years at the time of the contracting the same, received or taken possession of by such member or any other person by his order or to his use and remaining unapplied, unless any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such member, in which case he shall be further liable personally for such debt to the extent of the property not duly applied by him.

Saving of liability of surviving member of undivided Hindú family.

6. Except as provided in section 5 [1]* * *, nothing in this Act contained shall be construed as limiting or affecting the liability of any person as surviving member or one of the surviving members of an undivided Hindú family for any debt contracted under such circumstances as that the surviving member or surviving members of such undivided family is or are by the law now in force liable to pay the same.

Interpretation.

7. The term "debts," as used in this Act, shall be construed to include all liabilities arising out of any claims which could or might be enforced against a deceased Hindú himself if living, and for which a suit would lie against his representative [2]* * *.

8. [*Commencement of Act.*] *Rep. Act XII of 1873.*

Short title.

9. This Act may be cited for all purposes as the Bombay Hindú Heirs' Relief Act, 1866.

THE SINDH COURTS ACT, 1866.

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PREAMBLE.

SECTIONS.

1. Court of the Judicial Commissioner.
1A. Jurisdiction of Judicial Commissioner.
2. District Courts.
3. Jurisdiction of District Court.
4. Subordinate Civil Courts.

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[1] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been reprinted as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The rest of section 7 which was as follows :—" and unless there be something in the context or subject repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number and words importing the masculine gender shall include females " was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), *infra*.